

REMARKS

1. Examiner's Interviews

The undersigned attorney appreciates the telephonic interviews provided by Examiner Gilbert Lee on Tuesday, October 12 and Tuesday, October 26, 2010 concerning the August 19, 2010 Office Action. To briefly review the substance of these interviews, the Tuesday, October 12 interview reviewed the following topics:

- Regarding *Section 3 of the Office Action* and the §112(1) enablement rejections of claims 1, 16, 18, 19, and 21-39, it was agreed that these are enabled, and that the rejections should be withdrawn, particularly in view of FIGS. 1-2 and page 3 lines 27-32 of the application:

As shown in FIGS. 1 and 2, loop straps 1 hold the central section of the cells 2 linearly in parallel with the cell axis 11 whereas the opposite ends 3 of the cells 2 are secured a pre-determined distance 4 off-set from the cell axis 11. The distance 4 can vary along the length of the pad.

- Regarding *Section 4 of the Office Action* and the §112(1) written description rejection of claim 34, it was agreed that the written description requirement was met, particularly in view of the aforementioned page 3 lines 27-32 of the application (and more particularly the last sentence, "[t]he distance 4 can vary along the length of the pad"), and FIG. 2 as originally submitted.
- Regarding *Section 5 of the Office Action* and the §112(2) definiteness rejections of claims 1, 16, 18, 19, and 21-39, it was tentatively agreed (subject to later confirmation) that the claims affirmatively recited structure rather than a method of use and were definite, since they recited a well-identified structure existing at a definite point in time, rather than steps for constructing the structure over time.
- Regarding *Section 6 of the Office Action* and the §102 rejection of claim 1 in view of U.S. Patent 6,349,439 to *Cook et al.*, the undersigned attorney noted that if the *Cook* cells of FIGS. 5A-5B were tensioned, they would be pulled straight rather than bent. The Examiner agreed, but stated that if claim 1 is broadly construed, the *Cook* cells of FIGS. 5A-5B can be considered tensioned at their bends (with the outer curves being in tension and the inner curves being in compression). The undersigned attorney noted that the

Cook cells were nevertheless not *held* in a bent state by the loop straps and any fasteners, as recited in claim 1. The Examiner stated that the rejection would be reconsidered.

- Regarding **Section 7 of the Office Action** and the §102 rejections of claims 27-33 in view of GB 2,319,721 to *Chapman et al.*, here too the undersigned attorney noted that the *Chapman* cells weren't tensioned. The Examiner stated that if claim 27 is broadly construed, the *Chapman* cells can be regarded as tensioned by virtue of their inflation (i.e., they are stretched taut). The possibility of distinguishing the claims by inserting limitations relating to the loop restraints was discussed.
- Regarding **Sections 8-9 of the Office Action** and the §103 rejections of claims 16, 18, 19, 21-26, 33, and 35 in view of the aforementioned references, these were only briefly discussed to the extent that amendments addressing the issues of the §102 rejections, in combination with the arguments in the last Response, may be sufficient to overcome these rejections.

In the Tuesday, October 26, 2010 interview, the aforementioned §102 and §103 rejections were discussed again, and the Examiner indicated that:

- If independent claims 1 and 16 were amended to recite that the loops / loop straps restrain the central sections of the cells and prevent their motion (as noted, e.g., at page 4 lines 1-6 of the application), such amendments would (in combination with the arguments of the last Response) place claims 1 and 16 in allowable form.
- If independent claims 23 and 27 were amended to recite similar limitations (with conforming amendments being made to their dependent claims), such amendments would (in combination with the arguments of the last Response) place claims 23 and 27 in allowable form.

The accompanying amendments are made to effect these discussions.

2. The Amendments and the Support Therefor

Two claims are canceled (32 and 33), no new claims are added, and claims 1, 16, 23, 27, 35, 36, and 39 are amended to leave claims 1, 16, 18, 19, 21-31, and 34-39 in the application.

In these amendments:

- Independent claims 1 and 16 are amended to recite that the loops / loop straps restrain the central sections of the cells against movement (i.e., displacement and/or rotation), as discussed in the interview, and therefore *claim 1 and its dependent claim 21, and claim 16 and its dependent claims 18, 19, 22, 26, and 37 should be in condition for allowance*;
- Independent claim 23 is amended to incorporate portions of its dependent claim 35 to similarly recite restraint of the central sections of the cells by the loops as discussed in the interview, and therefore *claim 23 and its dependent claims 24, 25, and 34-36 should be in condition for allowance*;
- Independent claim 27 is amended to incorporate its dependent claims 32 and 33 to similarly recite restraint of the central sections of the cells by the loops as discussed in the interview, and therefore *claim 27 and its dependent claims 28-31, 38, and 39 should be in condition for allowance*;
- Claims 35 and 36, dependent from claim 23, are amended to conform with the amendments to claim 23;
- Claim 39 is amended to address an inadvertent punctuation error.

All claims should therefore be in condition for allowance, and a Notice of Allowance is requested.

3. In Closing

If any questions regarding the application arise, please contact the undersigned attorney. Telephone calls related to this application are welcomed and encouraged. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

For the Applicant,



Craig A. Fieschko, Reg. No. 39,668
CUSTOMER NO. 25005
DEWITT ROSS & STEVENS S.C.
2 E. Mifflin St., Suite 600
Madison, WI 53703-2865
Telephone: (608) 395-6722
Facsimile: (608) 252-9243
cf@dewittross.com